

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Adam Zahs,
Appellant,

v.

Polk County Board of Review,
Appellee.

ORDER

Docket No. 13-77-0812
Parcel No. 100/09672-000-000

On January 30, 2014, the above-captioned appeal came on for consideration before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. Appellant Adam Zahs was self-represented and requested the appeal proceed without a hearing. Assistant Polk County Attorneys Ralph Marasco, Jr. and David Hibbard represent the Board of Review. The Appeal Board, having reviewed the record and being fully advised, finds:

Findings of Fact

Adam Zahs is the owner of a residentially classified property located at 1423 31st Street, Des Moines, Iowa. The property is a two-story home built in 1899 with 1823 square feet of total living area. The property has a full, unfinished basement; an enclosed porch; and an open porch. It also has a 360-square-foot detached garage built in 1930 and listed in below normal condition. The site is 0.164 acres.

Zahs protested to the Board of Review regarding the 2013 assessment of \$87,100, allocated as \$14,900 in land value and \$72,200 in improvement value. The subject has an urban revitalization abatement, which results in an adjusted total taxable value of \$64,100. Zahs claimed the property was assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), and asserted the correct total value was \$52,500. The Board of Review denied the claim.

Zahs then appealed to this Board re-asserting his claim.

Zahs purchased the subject property in January 2013 for \$42,500. According to the property record card, he purchased the property from Community Assets, LLC, which indicates the sale was the result of a foreclosure. Foreclosures, or bank-owned sales, are not considered arm's-length transactions for assessment purposes and would not be considered for a market value claim unless it was adjusted for the distorting factor. Zahs asserts he would have paid the same price for the property whether he purchased it from the bank or a homeowner, but he does not provide any evidence to support this opinion.

Zahs explained that after he purchased the property, he took out a building permit for \$8600 and replaced windows, insulated and re-dry-walled the property's exterior walls; installed new kitchen cabinets; added two outlets; and adjusted the kitchen sink. An air-conditioning unit was also installed, and the exterior was painted. He states the updates should add no more than \$10,000 in value, which he contends was more than the actual costs. However, he does not provide any additional evidence of the actual costs or whether they include materials *and* labor. Further, while cost may be indicative of value, it does not conclusively establish value. Ultimately, Zahs believes the correct value of his property is the purchase price of \$42,500, plus his asserted actual costs of \$10,000, for a total assessment of \$52,500. He does not provide any market sales data, an appraisal, or any other evidence of value such as an income analysis to support his opinion of the fair market value.

The Board of Review did not provide any new evidence. The Certified Record includes an Appraiser Analysis completed by Appraiser Tursi in the Polk County Assessor's Office. Tursi submitted three comparable sales located in the subject's neighborhood. The sales occurred between August 2011 and July 2012. After adjustments, the sales indicate a value range from roughly \$81,000 to \$105,500. This is the only evidence in the record of the subject's fair market value as of January 1, 2013.

Conclusion of Law

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin Cnty. Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

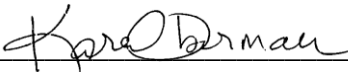
In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. § 441.21(1)(b). In interpreting this provision, the Iowa Supreme Court has stated that while the sales price of a property may be evidence of its market value, the sales price *alone* is not determinative of the market value. *Riley v. Iowa City Bd. of Review*, 549 N.W.2d 289 (Iowa 1996). Rather, the subject property's sales price in a normal transaction is a matter to be considered in arriving at market value but does not *conclusively* establish the subject's market value. *Id.* at 290. However, foreclosures and lender sales are not considered normal transactions and require adjustments to be used as comparable sales. § 441.21(1)(b). If sales are not available to determine market value then "other factors," such as

income and/or cost, may be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

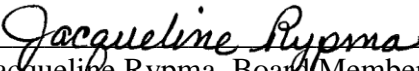
In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Zahs did not provide sufficient evidence of the subject property's fair market value as of January 1, 2013. The fact that Zahs purchased the property as an apparent foreclosure makes the transaction abnormal and adjustments must be made to eliminating the distorting effect. However, Zahs' sale price was not adjusted to compensate for the abnormal sale condition nor did he provide any other evidence of market value. Thus, he failed to show his property is over-assessed.

THE APPEAL BOARD ORDERS the 2013 assessment of Adam Zahs' property located at 1423 31st Street, Des Moines, Iowa is affirmed.

Dated this 18th day of February 2014.


Karen Oberman, Presiding Officer


Stewart Iverson, Board Chair


Jacqueline Rypma, Board Member

Copies to:

Adam Zahs
300 Walnut Street
Unit 48
Des Moines, Iowa 50309
APPELLANTS

Ralph Marasco, Jr. and David Hibbard
Assistant Polk County Attorneys
111 Court Avenue
Room 340
Des Moines, Iowa 50309
ATTORNEYS FOR APPELLEE